

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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Defendant.

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Stipulation for Witness Joseph Galantino to Be Permitted to Testify Through Live Video Teleconference

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1 and is the sole caretaker of his spouse. Mr. Galantino's physician has submitted a letter
2 (attached hereto as Exhibit A) stating that Mr. Galantino's needs could be appropriately
3 accommodated through live video testimony. Under the circumstances, the government
4 and defendant agree that it would be appropriate to permit Mr. Galantino to testify
5 through live video teleconference from the federal district court in Baltimore, the
6 nearest federal court to where Mr. Galantino lives.

7 Defendant has been advised that the Confrontation Clause of the Sixth
8 Amendment gives a criminal defendant the right "to be confronted with the witnesses
9 against him" and that "the Confrontation Clause reflects a preference for face-to-face
10 confrontation," but that this preference "must occasionally give way to considerations of
11 public policy and the necessities of the case." Maryland v. Craig, 497 U.S. 836, 849
12 (1990); see also United States v. Sapse, 2012 WL 5334630, at *2 (D. Nev. Oct. 26, 2012)
13 (allowing video teleconference testimony relying on Maryland v. Craig). After being
14 advised of his right to confront witnesses, the defendant knowingly waives that right as
15 to Mr. Galantino.

16 **The Proposed Video Teleconference Procedure**

17 The government proposes and the defense has no objection as to Mr. Galantino
18 testifying from the District of Maryland in Baltimore, the nearest location to Mr.
19 Galantino's residence. The United States understands that the Court has the ability to
20 arrange for video teleconference testimony with other United States District Courts
21 around the country. The witnesses' testimony would then be projected onto screens in
22 the courtroom here for observation by the parties, Court and jury.

23 For purposes of preserving the defendants' Confrontation Clause rights, the
24 witness' testimony would be elicited as if they were sitting in the courtroom in Las
25 Vegas:
26

- The witness would take an oath administered by the Court's Courtroom Clerk in Las Vegas;
- During their testimony, the witness could observe and hear the defendant and defense counsel;
- During the witness' testimony, the defendant could observe him. The witness would be alerted that the defendant could observe him;
- The jury could observe the demeanor of the witness during direct and cross examination; and
- Defense counsel would have a full and fair opportunity to cross examine the witness.

The parties are amenable to any additional procedures that the Court may impose to facilitate live video teleconference testimony.

Conclusion

For the foregoing reasons, the parties respectfully request that this Court enter an Order reflecting the parties' stipulation to introduce the testimony of Joseph Galantino through Video Teleconference during trial.

DATED: August 2, 2016


DANIEL G. BOGDEN
United States Attorney

ORDER

IT IS SO ORDERED.

DATED this 9 day of August, 2016.

/s/
KATHRYN C. NEWMAN
Assistant United States Attorney
ERIC C. SCHMALE
Trial Attorney,
U.S. Department of Justice, Tax Division



Lloyd D. George
Sr. U.S. District Judge

/s/
JEFFREY B. SETNESS

Fabian VanCott
Counsel for Defendant Jeffrey Nowak

Exhibit A

KAISER PERMANENTE[®]

Mid-Atlantic Permanente Medical group, P.C.
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
Rockville, MD 20852Mid-Atlantic States, Inc.

6/23/2016

RE:

Joseph G Galantino
9829 Fox Hill Rd
Perry Hall MD 21128

57100950

DOB:10/31/1934

Attn: ATTY Kathryn C. Newman
501 Las Vegas Blvd South, Ste 1100
Las Vegas, NV 89101

Dear Attorney Newman:

I have been asked by Mr Joseph G Galantino, to write a letter on his behalf explaining his current health status. He currently suffers from the following medical problems: Gout, Hypertension, Type 2 Diabetes, & Atherosclerotic Vascular Disease. He has not flown on an airplane in more than 5 years and is the caretaker of his spouse.

Your request for him to travel to Las Vegas, NV from Baltimore, MD would present an undo hardship to his family responsibilities, plus due to his above medical problems could cause worsening of his above medical condition due to the stress of travel for this 81 year old gentlemen.

He is capable of testifying as a witness as he has good command of his mental faculties and continues to work part time in his accounting practice. I would respectfully ask that if you need him as a witness for your case that you could accommodate your needs with some form of video conferencing or other means to avoid the need for him to travel at his age alone to Las Vegas.

Thank you for your consideration.

PAUL T WIELEBINSKI MD
INTERNAL MED WHT MAR
4920 Campbell Boulevard
Baltimore MD 21236